

How Unanimous Consent Agreements Regulate Senate Floor Action

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Summary

The Senate often regulates consideration of a measure or other matter by means of a unanimous consent agreement (also called a “UC agreement” or “consent agreement”). A consent agreement typically regulates one or more of the following: (1) initiating consideration, (2) amendments, (3) time for debate, (4) motions, (5) concluding consideration, and (6) subsequent proceedings. Formerly, the Senate often entered into such an agreement before taking up a matter, and it typically covered all phases of consideration and followed a standard model. Today’s agreements more often address only selected aspects, and many are reached only after consideration begins. As a result, consideration of some matters is regulated by several successive partial consent agreements or modifications of an initial one. For more information on legislative process, see <http://www.crs.gov/products/guides/guidehome.shtml>. On consent agreements generally, see CRS Report 98-225, *Unanimous Consent Agreements in the Senate*, by Walter J. Oleszek.

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Initiating Consideration

Most matters reach the Senate floor through unanimous consent requests that the chamber proceed to their immediate consideration. These requests are usually considered consent agreements only when they also include further provisions regulating consideration. A consent agreement may also be made in advance of consideration. In that case it can provide that the matter come to the floor: (1) at a date (and time) certain; (2) at a time determined by the majority leader (often after consultation with the minority leader); or (3) upon disposition of some other matter. A consent agreement made after consideration begins may provide that it resume under one of the conditions listed. One that provides for consideration to begin may also provide for discharge of a committee holding the measure or for the waiver of points of order to which the measure might be subject, and may provide that a bill be taken up for debate only and then laid aside.

Amendments

UC agreements may prohibit all amendments or those on a specified subject. More often, they permit amendments only: (1) as identified in the agreement itself; (2) if relevant to the measure; or, sometimes, (3) in a specified order. For detail, see CRS Report 98-310, *Senate Unanimous Consent Agreements: Potential Effects on the Amendment Process*, by Valerie Heitshusen.

Debate Time

Consent agreements that limit the time available for debate are also called “time agreements.” A time agreement may establish an overall limit on debate of a measure or matter, or may regulate only a certain day or portion of consideration. Usually, it provides that the specified time be equally divided and controlled by the majority and minority bill managers. Some recent time agreements, however, provide that the two parties alternate control of the floor in half-hour blocks, and others specify the order in which Senators will be recognized. Time agreements may also provide separate blocks of controlled time for each amendment, or for specified amendments, and may limit debate on any “debatable motion, appeal, or point of order” that may arise during consideration. When a question is considered under a time agreement, no vote can occur on the question, and no amendment to it or motion to table it can be offered, until the allotted time is used or the managers yield it back. Also, a Senator can be recognized to speak on the question only when yielded time by a Senator controlling time. A Senator controlling “bill time” may, however, yield some of it to supplement that available for debate of an amendment, motion, or other question.

Motions

Consent agreements may prohibit or restrict the use of quorum calls or of various motions, such as to table or reconsider amendments, to recommit the bill, or for cloture. Increasingly, instead of serving as an alternative to cloture, UC agreements adjust the operation of the cloture rule. Some alter the time for filing or voting on cloture motions, or for filing amendments to be in order under cloture. Others regulate debate before the cloture vote or even under cloture. A few provide that a cloture motion be deemed filed, or even that cloture be deemed to have been invoked. Others may permit the Senate to take up one bill even if cloture is invoked on another, or provide that cloture on one bill does not displace another from consideration. An occasional agreement replaces cloture, in effect, by providing that a measure must receive 60 votes to pass.

Concluding Consideration

A UC agreement may require a vote on final passage at a specified point (such as when all available time is exhausted, or upon disposition of all listed amendments) or at a time certain. (Paragraph 4 of Senate Rule XII requires a quorum call before unanimous consent is granted for this last purpose, but is often waived by unanimous consent.) Consent agreements also may provide that votes on amendments be postponed and “stacked” to occur just before the final vote. Other UC agreements may stipulate that at a specified time or stage, the matter being considered will be laid aside or returned to the calendar—pending specified action on another matter, or until a date certain, or until the majority leader calls it back.

Subsequent Proceedings

Some UC agreements regulate the “hookup” of a Senate measure with a House-passed companion in order to proceed to resolve differences. Many provide that, if the Senate passes the bill, it then take up the House-passed companion, substitute the Senate text, and pass the House bill in that form. Others provide in advance that similar actions occur at a later date if specified conditions are met. For example, a UC agreement may stipulate that the Senate bill be held at the desk until a House companion is received, and that the “hookup” then be deemed to have occurred; or that, if the House later returns a Senate-passed bill with amendments, the Senate then be deemed to have asked or agreed to a conference. A UC agreement also may provide that, after specified proceedings on one matter are completed, some unrelated matter shall automatically be taken up, or other action shall occur thereon.

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